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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-451

13 **SARA PAULINE HOFFFLIGER**
aka SARA PAULINE AGUIRRE
14 4859 Loma Vista Road
Ventura, CA 93003

A C C U S A T I O N

15 Registered Nurse License No. 728211

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about June 16, 2008, the Board issued Registered Nurse License No. 728211 to
23 Sara Pauline Hoefffliger, aka Sara Pauline Aguirre (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

A(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it. . . ."

7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license. . . ."

8. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.

9. Section 2770.11 states:

"(a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with the provisions of rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

"(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding."

COST RECOVERY

10. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be

1 included in a stipulated settlement.

2 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

3 11. Heroin is a Schedule I controlled substance pursuant to Health and Safety Code
4 section 11054(c)(11).

5 12. Norco is a Schedule II or Schedule III controlled substance depending on the dosage
6 of acetaminophen pursuant to Health and Safety Code section 11056(e-3) – (e-4) and is
7 categorized as a dangerous drug pursuant to section 4022.

8 13. Xanax is a Schedule IV controlled substance pursuant to Health and Safety Code
9 section 11057(d)(1) and is categorized as a dangerous drug pursuant to section 4022(c) of the
10 Code.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Diversion Program)**

13 14. Respondent is subject to disciplinary action under section 2761, subdivision (d), and
14 section 2770.11, in that on or about January 25, 2012, Respondent was terminated from the
15 Board's Registered Nursing Diversion Program (Diversion Program) for failure to comply with
16 provisions of the rehabilitation plan and she was determined to be a public safety risk. The
17 circumstances are as follows:

18 a. On or about November 29, 2011, Respondent made her first contact of self-referral to
19 the Diversion Program.

20 b. On or about December 20, 2011, Respondent voluntarily enrolled in the Diversion
21 Program after admitting:

22 i. to being chemically dependent and addicted to opiates;

23 ii. that her last reported chemical abuses were:

24 Norco, drug of choice, used during the last 12 months,

25 Alcohol on or about October 31, 2011,

26 Heroin on or about December 5, 2011, and

27 Xanax on or about December 13, 2011;

28 iii. that she was being written up by her employer, Ventura Medical Center, for

1 showing up late to work and not returning telephone calls when she was on call for the hospital,
2 and that she was put on leave on or about October 17, 2011;

3 iv. to sustaining a DUI conviction for alcohol in or about 2003; and,

4 v. to being under the influence while taking care of surgery patients.

5 c. Effective December 20, 2011, the Diversion Program required that Respondent's
6 practice as a registered nurse is suspended as a condition of participation in the Diversion
7 Program.

8 d. On or about January 11, 2012, Respondent admitted that she relapsed by using
9 Heroin.

10 e. On or about February 7, 2012, the Director of Surgical Services for the Ventura
11 County Medical Center reported to the Board that:

12 i. On or about October 9, 2011, between 18:25 and 20:30, Respondent was
13 missing from her assigned duties. After Respondent was found exiting the women's bathroom, a
14 cosmetic bag containing syringes with hypodermic needles attached and a tourniquet was located
15 on top of the bathroom's toilet paper dispenser and blood droplets were noticed on the bathroom
16 floor. Respondent claimed the found cosmetic bag, and admitted that she knew it contained the
17 tourniquet, hypodermic needles and syringes. Respondent placed on administrative leave.

18 ii. Subsequently, Respondent informed hospital staff that she was enrolled in the
19 Diversion Program. Respondent was terminated from employment at the Ventura County
20 Medical Center because she failed to provide progress reports of her Diversion Program.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Unlawfully Obtaining and Possessing Controlled Substances)**

23 15. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
24 2762, subdivision (a), on the grounds of unprofessional conduct, in that on or about December 20,
25 2011, Respondent admitted to obtaining and using the controlled substances Heroin, Norco and
26 Xanax, without valid prescriptions. Complainant refers to and by this reference incorporates the
27 allegations set forth above in paragraph 14, subparagraphs a – e, inclusive, as though set forth
28 fully.

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2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Use of a Controlled Substance in a Dangerous Manner)**

4 16. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
5 2762, subdivision (b), on the grounds of unprofessional conduct, in that on or about and between
6 December 5, 2011 and January 11, 2012, Respondent obtained and used Heroin, a controlled
7 substance, without a valid prescription. Complainant refers to and by this reference incorporates
8 the allegations set forth above in paragraph 14, subparagraphs b and d, inclusive, as though set
9 forth fully.

10 **DISCIPLINE CONSIDERATIONS**

11 17. To determine the degree of discipline, Complainant alleges that:

12 a. On or about May 1, 2008, Respondent in her application for licensure with the Board
13 admitted to sustaining "three [sic]¹ convictions of 'public intoxication' in or about
14 1998 [sic]-2002," and in or about April 2003, sustaining a conviction for driving under the
15 influence of alcohol.

16 b. On or about April 30, 2003, after pleading nolo contendere, Respondent was
17 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [drive with an
18 equal to or greater than 0.08% blood alcohol content (BAC), to wit, 0.20/0.23% BAC] in the
19 criminal proceeding entitled *The People of the State of California v. Sara Pauline Aguirre* (Super.
20 Ct. Santa Barbara County, 2003, No. 1124161). The Court placed Respondent on three (3) years
21 probation, and ordered her to attend a First Offender Alcohol Program. The circumstances
22 underlying the conviction occurred on or about April 3, 2003, and Respondent was arrested.

23 c. On or about May 23, 2002, after pleading nolo contendere, Respondent was convicted
24 of one misdemeanor count of violating Penal Code section 647(f) [drunk in public] in the criminal
25 proceeding entitled *The People of the State of California v. Sara Pauline Aguirre* (Super. Ct. San
26 Luis Obispo County, 2002, No. M000325624). The circumstances underlying the conviction

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28 ¹ Respondent's 1998 "public intoxication" criminal complaint was dismissed by the Court.

1 occurred on or about April 28, 2002, and Respondent was arrested.

2 d. On or about May 24, 1999, after pleading nolo contendere, Respondent was convicted
3 of one added misdemeanor count of violating San Luis Obispo County Municipal Code
4 section 9.04.010 [consumption of alcoholic beverages in public places] in the criminal proceeding
5 entitled *The People of the State of California v. Sara Pauline Aguirre* (Super. Ct. San Luis
6 Obispo County, 1999, No. M000283364). The circumstances underlying the conviction occurred
7 on or about April 30, 1999, and Respondent was arrested.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board issue a decision:

11 1. Revoking or suspending Registered Nurse License No. 728211, issued to Sara
12 Pauline Hoeffliger;

13 2. Ordering Sara Pauline Hoeffliger to pay the Board the reasonable costs of the
14 investigation and enforcement of this case, pursuant to section 125.3; and,

15 3. Taking such other and further action as deemed necessary and proper.
16
17

18 DATED: December 4, 2012

Louise R. Bailey
19 LOUISE R. BAILEY, M.ED., RN
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant
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